

ORDINANCE NO. CO47.17.08.24.E1

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS, AMENDING CEDAR PARK CODE OF ORDINANCES CHAPTER 14 SITE DEVELOPMENT, ARTICLE 14.06 ELECTRICAL AND COMMUNICATIONS UTILITIES, SECTION 14.06.001 GENERAL AND ARTICLE 14.08 LIGHTING REQUIREMENTS, SECTION 14.08.006 LIGHTING IN DESIGN DISTRICTS; CHAPTER 16 TRANSPORTATION REGULATIONS, ARTICLE 16.03 USE OF RIGHT OF WAY; AND APPENDIX A FEE SCHEDULE, ARTICLE 2.000 DEVELOPMENT SERVICE RELATED FEES, SECTION 2.300 PUBLIC WORKS FEES, ADOPTING A NETWORK NODE DESIGN MANUAL, AND AUTHORIZING THE CITY MANAGER TO EXECUTE AGREEMENTS FOR NETWORK NODE FACILITY PLACEMENT ON SERVICE POLES; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, SB 1004 related to municipal regulation of network nodes was signed into law during the 85<sup>th</sup> Legislative Session creating Texas Local Government Code Chapter 284, which severely restricts a municipalities authority in city rights-of-way related to the installation of equipment related to network nodes; and

WHEREAS, pursuant to the proposed Texas Government Code Chapter 284, the City is authorized to regulate specific aspects the installation of network nodes, network support poles, and transport facilities; and

WHEREAS, pursuant to Texas Government Code Chapter 284, the City may adopt and require compliance with a design manual for additional installation and construction details that do not conflict with Texas Government Code Chapter 284; and

WHEREAS, the City finds unfettered proliferation of network nodes and node support poles and the mandated location on City service poles to be contrary to the general health, safety, and welfare of the residents of the Cedar Park and the public in general because the location of these facilities will create distraction along City roads, block lines of sight for drivers and pedestrians, and will result in a more dangerous transportation conditions and detract from the ambiance of the City, and

WHEREAS, the City finds that the implementation of minimum spacing requirements between node support poles to limit the number of network nodes and node support poles and the concealment of network nodes on streetlights as proposed to be in compliance with Texas Local Government Code Chapter 284, including the provision of sufficient service capacity and the allowance of the deployment of new technologies, and necessary to mitigate the harm from the proliferation of these facilities and protect the residents of the City of Cedar Park, the public in general, and the ambiance of the City; and

WHEREAS, pursuant to Texas Local Government Code Chapter 284, the City is required to allow collocation of network nodes on the City's service poles subject to an agreement with the City that does not conflict with Texas Government Code Chapter 284; and

WHEREAS, the City Council finds that the amendments to the Code of Ordinances, the adoption of a design manual, and authorization of the City Manager to execute agreements for the collocation of network nodes on service poles to be in the best interest of the City and its residents.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS:

SECTION 1. That Cedar Park Code of Ordinances Chapter 14 Site Development, Article 14.06 Electrical and Communications Utilities, Section 14.06.001 General is hereby amended in accordance with Exhibit A.

SECTION 2. That Cedar Park Code of Ordinances Chapter 14 Site Development, Article 14.08 Lighting Requirements, Section 14.08.006 Lighting in Design Districts is hereby amended in accordance with Exhibit A.

SECTION 3. That Cedar Park Code of Ordinances Chapter 14 Site Development, Article 14.09 Wireless Telecommunications Facilities (WTFs), Section 14.09.001 General is hereby amended in accordance with Exhibit A.

SECTION 4. That Cedar Park Code of Ordinances Chapter 16 Transportation Regulations, Article 16.03 Use of Right-of-Way is hereby amended in accordance with Exhibit A.

SECTION 5. That Cedar Park Code of Ordinances Appendix A Fee Schedule, Article 2.000 Development Service Related Fees, Section 2.300 Public Works Related Fees is hereby amended in accordance with Exhibit A.

SECTION 6. That the Network Node Design Manual is hereby adopted in accordance with Exhibit A.

SECTION 7. That the City Manager is hereby authorized to execute agreements with network providers for the installation of network nodes on service poles that generally conforms to the agreement included in Exhibit A, and subject to final review by the City Attorney.

SECTION 8. That the provisions of this ordinance are severable and the invalidity of any word, phrase or part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

SECTION 9. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

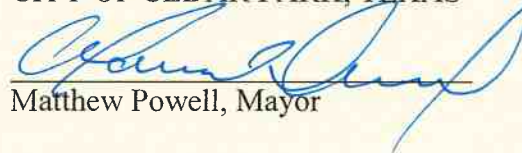
SECTION 10. That it is hereby officially found and determined that the meetings at which this ordinance was introduced and passed were open to the public and that public notice of the time, place and purpose of said meetings were given all as required by law.

READ AND CONSIDERED ON FIRST READING by the City Council of Cedar Park at a regular meeting on the 10th day of August, 2017, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.


READ, CONSIDERED, PASSED, AND APPROVED ON SECOND AND FINAL READING by the City Council of Cedar Park at a regular meeting on the 24<sup>th</sup> day of August, 2017, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

PASSED AND APPROVED this the 24<sup>th</sup> day of August, 2017.


CITY OF CEDAR PARK, TEXAS

  
Matthew Powell, Mayor

ATTEST:

  
LeAnn M. Quinn, TRMC  
City Secretary

APPROVED AS TO FORM  
AND CONTENT:

  
J.P. LeCompte, City Attorney



ORDINANCE NO. CO47.17.08.24.E1

## CHAPTER 14 SITE DEVELOPMENT

### ARTICLE 14.06 ELECTRICAL AND COMMUNICATION UTILITIES

#### Sec. 14.06.001 General

- (a) Utilities shall be installed in accordance with this Section.
- (1) All new residential utility installations, including, but not limited to, electrical, gas, television and telephone/telecommunication, shall be placed underground.
  - (2) All new nonresidential utility installations, including but not limited to electrical, gas, television, and telephone/telecommunication, shall be placed underground where service is provided adjacent to public street or right-of-way. Where electrical service is provided from an alley or rear easement not located adjacent to a public street, primary electrical service may be provided overhead along the property line. Primary and secondary service routed on the site shall be placed underground.
  - (3) All new construction within the public street rights-of-way shall be located underground. Where a street is scheduled for reconstruction, new development may be required to provide an escrow of the difference between overhead and underground service.
  - (4) Nothing herein shall prevent temporary service during construction from being located overhead.
  - (5) New development shall assume responsibility for all expense related to the underground placement of utilities.
  - (6) Utility meters and other utility apparatus, including, but not limited to, transformers and switch boxes, shall be located to the rear of the structure unless adequately screened from view from public streets and adjoining properties and shall be suitable for access required for service and maintenance. Adequately screened from view shall include screening walls as well as the utilization of landscaping and other site elements.
  - (7) All required screening shall meet clearances required by affected utility companies and shall be suitable for access required for service and maintenance. Wall-mounted equipment, including meters (such as banks of electric meters on the rear or side wall of multitenant buildings), shall be screened from public streets by one of the following methods.
    - (A) Landscaping, including trees or evergreen shrubbery.
    - (B) Masonry walls in conjunction with landscaping.

(C) Wall-mounted screening devices, such as cabinets or partitions which are architecturally compatible with the building facade.

(8) Electrical transmission (59 or more kilovolts) may be located overhead.

(9) Existing overhead electrical, television, and/or telephone/telecommunication utilities located on the developing property or adjacent right-of-way shall be excluded from the requirement to be placed underground.

(b) When development occurs in the corridor overlay district, including relocating all existing aboveground utilities underground along all perimeter roads and alleys, all aboveground electrical and telephone support equipment including, but not limited to, transformers, amplifiers, and switching devices shall not be located in the right-of-way of the above-referenced corridor overlay district.

(c) When development occurs outside the corridor overlay district, no new aboveground utility support structures (poles) may be installed. When existing pole space is not available, all new electrical and communication utilities including but not limited to, transformers, amplifiers, and switching devices shall be placed underground or be pad-mounted at ground level.

(d) Groundmounted equipment shall not be placed in visibility, access and maintenance easements.

(e) The Director of Engineering, or their designee, may grant an exception to the requirements of this Section if:

(1) compliance with this Section is not in the best interest of public safety; or

(2) the placement of utility lines is the result of an upgrade, reconstruction, or reconductoring of existing overhead facilities that is not associated with a specific development(s).



## **ARTICLE 14.08 LIGHTING REQUIREMENTS**

### **Sec. 14.08.001 Scope and purpose**

Site lighting provides safety and security and enhances the architectural and natural features of the site. Glare and illumination standards shall assure that the mechanisms providing light do not negatively impact the appearance of the site.

### **Sec. 14.08.002 Conformance with applicable codes**

All outdoor illuminating devices shall be installed in conformance with the provisions of this article, the building code, the electrical code, and the sign ordinance as applicable, and under appropriate permit and inspection.

### **Sec. 14.08.003 Shielding and outdoor lighting standards for residential**

- (a) All outdoor lighting fixtures shall be placed so as to not cause light trespass or glare beyond the property boundary.
- (b) Any lamp installed on a residential property shall be shielded such that glare from the light source is not directly visible from any other residential property.
- (c) Flood or spotlights shall be aimed no higher than forty-five (45) degrees above straight down (half-way between straight down and horizontal) when the fixture is visible from any off-site residential property or public roadway.
- (d) All light fixtures shall be located, aimed or shielded so as to minimize stray light trespassing across property boundaries.
- (e) Holiday lighting is allowed from October 15th to March 15th.

### **Sec. 14.08.004 General standards for nonresidential**

- (a) Lighting shall be nonflashing as to eliminate objectionable glare.
- (b) Lighting shall be directed downward and be arranged so as to direct the light away from the adjacent property.
- (c) Lighting shall not glare onto adjacent properties or streets
- (d) The light source shall not be visible.
- (e) Security lighting shall not negatively impact the site, building architecture or adjacent properties.

- (f) Holiday lighting is allowed from November 15th to February 15th.

**Sec. 14.08.005 Lighting design standards for nonresidential**

Lighting shall be used to provide safety while accenting key architectural elements and to emphasize landscape features. Light fixtures shall be designed as an integral design element that complements the design of the project. This may be accomplished through style, material or color. All lighting fixtures designed or placed so as to illuminate any portion of a site shall meet the following requirements:

- (1) The light source shall be completely concealed within an opaque housing and shall not be visible from the street or adjacent properties. In order to direct light downward and minimize the amount of light spill into the night sky and onto adjacent properties, all lighting fixtures shall be full cutoff fixtures.
- (2) Lighting shall be oriented not to direct glare or illumination onto streets in a manner that may distract or interfere with the vision of drivers on such streets.
- (3) Lighting fixtures shall not be more than twenty-five (25) feet in height within an on-site parking area.
- (4) Lighting fixtures located within fifty (50) feet of any residential use shall not exceed fifteen (15) feet in height.
- (5) Lighting fixtures shall be mounted in such a manner that the cone of light is contained on site and does not cross any property line of the site.
- (6) Wall-mounted floodlamps/wall-packs internal to a site that are not visible from a public road or adjacent to residential or multifamily district may be of any design. Wall-mounted floodlamps/wall-packs visible from public roads and adjacent to any residential or multifamily use shall not be allowed.
- (7) Fixtures used to accent architectural features, landscaping or art shall be located, aimed or shielded to minimize light spill into the night sky.
- (8) Architectural and landscaping lighting. Outdoor lighting used to illuminate flags, statues, signs or other objects mounted on a pole, pedestal or platform, spotlighting or floodlighting used for architectural or landscape purposes, must use full cutoff or directionally shielded lighting fixtures that are aimed and controlled so that the directed light is substantially confined to the object intended to be illuminated.
- (9) All exterior lighting shall comply with applicable terms of the International Energy Conservation Code, as adopted by the city. In cases where terms of this chapter conflict with the International Energy Conservation Code, the more restrictive shall apply.

**Sec. 14.08.006     Lighting in Design Districts**

- (a) All lighting poles in areas designated as a design district, shall be decorative poles, as that term is defined by Texas Local Government Code Chapter 284, as amended.
- (b) The zoning districts designated as design districts are set forth below and shall include the city right-of-way adjacent to each zoning district:
  - (1) Development Reserve District Interim (DR)
  - (2) Rural/Agricultural District (RA)
  - (3) Manufactured Home Residential District (MH)
  - (4) Estate Lot (ES)
  - (5) Single-Family Residential District, Large Lot (SF)
  - (6) Single-Family Residential District, Large Suburban Lot (SF-1)
  - (7) Single-Family Residential District, Large Urban Lot (SF-2)
  - (8) Single-Family Residential District, Urban Lot (SF-3)
  - (9) Town Home Residential District (TH)
  - (10) Condominiums Residential District (CD)
  - (11) Duplex Residential District (DP)
  - (12) Multifamily Residential District (MF)
  - (13) Transitional Office District (TO)
  - (14) Transitional Commercial District (TC)
  - (15) General Office District (GO)
  - (16) Local Retail District (LR)
  - (17) General Retail District (GR)
  - (18) Hospital District (H)
  - (19) Business District (BD)



- (20) Public Services District (PS)
- (21) Commercial Services District (CS)
- (22) Heavy Commercial District (HC)
- (23) Light Industrial District (LI)
- (24) General Industrial District (GI)
- (25) Heavy Industrial District (HI)
- (26) Open Space Greenbelt District (OSG)
- (27) Open Space Recreation District (OSR)
- (28) Downtown District (DD)
- (29) Mixed Use District (MU)
- (30) Planned Development District (PD)
- (31) Corridor Overlay (CO)
- (32) Historic Preservation Overlay (HPO)

**Sec. 14.08.007 Recreational Facilities**

Any light source permitted by this article may be used for lighting of outdoor recreational facilities (public or private), such as, but not limited to, football fields, soccer fields, baseball fields, softball fields, tennis courts, or show areas, provided all of the following conditions are met:

- (1) The mounting height of outdoor sports field and outdoor performance area lighting fixtures shall not exceed eighty (80) feet from finished grade unless approved by the development services committee as having no adverse effect or approved by the planning and zoning commission as part of a variance request;
- (2) All outdoor sports field and outdoor performance area lighting fixtures shall be equipped with a glare control package (louvers, shields, or similar devices);
- (3) The fixtures must be aimed so that their beams are directed and fall within the primary playing or performance area;
- (4) Lighting shall be shielded so as to cast no direct light on adjacent properties;

(5) Nonconforming fixtures lighting sports fields may be replaced or otherwise changed on an individual/small cluster basis with new nonconforming fixtures; however, when all the fixtures are upgraded or otherwise changed, the fixtures must be brought into compliance with the requirements of this chapter;

(6) All stadium and other sports arena lights used for the illumination of the playing area must be extinguished by 10:00 p.m. or immediately after the conclusion of the final event. No new event, activity, or game may start after 10:00 p.m. The remainder of the facility lights, except for reasons of security, must be extinguished at 10:00 p.m. or within one hour after the final event;

(7) Lighting shall be shielded so as to cast no direct light on adjacent properties; and

(8) Any stadium-lit outdoor facility shall be located a minimum of two hundred (200) feet from any residential use.

#### **Sec. 14.08.008 Required site plan information**

The following outdoor lighting information must be included with all site plan submissions:

(1) The location and height of all light poles, including parking lot and walkway light poles;

(2) Illustrations of each style of freestanding lighting fixture that show that such fixture is either a full cutoff or directionally shielded lighting fixture; and

(3) A statement from the owner/developer certifying that all required outdoor lighting provisions will be met.

#### **Sec. 14.08.009 Prohibited light sources**

(a) Neon light sources that blink or flash.

(b) Cobra-head-type fixtures having dished or drop lenses or refractors which house other than incandescent sources.

(c) Searchlights and other high-intensity narrow-beam fixtures.

(d) Lighting fixtures that have flashing, rotating, moving, pulsing or alternating colored sources except between Thanksgiving Day and January 15.

(e) Laser source light. The use of laser source light or any similar high intensity light for outdoor advertising or entertainment, when projected above the horizontal is prohibited.

(f) Searchlights. The operation of searchlights for advertising purposes is prohibited.

#### **Sec. 14.08.010 Exemptions**

The following are exempt from the outdoor lighting standards, provided that such fixtures do not cause disability glare:

- (1) Lighting fixtures and standards required by federal, state or county agencies, including streetlights within the public right-of-way.
- (2) Outdoor lighting fixtures used by law enforcement, fire and rescue, the state department of public safety or other emergency response agencies to perform emergency or construction repair work, or to perform nighttime road construction on major thoroughfares.

#### **Sec. 14.08.011 Nonconforming fixtures**

Except where otherwise noted, all lighting fixtures existing and legally installed and operative before the effective date of this chapter are exempt from the requirements of this article.

Whenever a nonconforming fixture is replaced or moved, the replacement fixture shall meet the requirements of this article.

(Ordinance CO41-07-07-12-3H adopted 7/12/07)

**ARTICLE 14.09 WIRELESS TELECOMMUNICATION FACILITIES (WTFs)**

**Sec. 14.09.001 General**

(a) Preexisting WTFs for which a permit has been issued prior to the effective date of this chapter shall not be required to meet the requirements of this article as further specified in section 14.09.012 of this article.

(b) WTFs serving a public safety purpose as approved by the city are exempt from the following regulations within this article: Section 14.09.003 height limitations, section 14.09.004 towers along major thoroughfares and gateways, section 14.09.006 separation between towers, and section 14.09.010(1) additional setbacks and separation requirements.

(c) This Article 14.09 does not apply to Network Nodes and Node Support Poles, as that term is defined by Texas Local Government Code Chapter 284, as amended, that are proposed to be located in the City right-of-way. All Network Nodes and Node Support Poles proposed to be placed in the City right-of-way are governed by Texas Local Government Code Chapter 284, as amended and Cedar Park Code of Ordinances Articles 16.02 and 16.03, as amended.

(Ordinance CO38-14-04-10-C5 adopted 4/10/14)

**CHAPTER 16  
TRANSPORTATION REGULATIONS**

**ARTICLE 16.03 USE OF RIGHT-OF-WAY**

**Sec. 16.03.001 Purpose and definitions of use of right-of-way**

The purpose of this article is to provide minimum standards for the safe movement of pedestrian and vehicular traffic through or around any activity which temporarily occupies a street, alley, sidewalk, pedestrian way, or thoroughfare. Subject to additional definitions contained in other chapters, sections, divisions, parts, or sections of the Cedar Park Code of Ordinances:

Public service agencies. The agencies whose primary function is to provide and maintain public utilities.

Roadway. The portion of public highway improved, designed, or ordinarily used for vehicular travel or parking. If a highway includes two or more separate roadways, the term "roadway" refers to such roadway.

Sidewalk area/pedestrian way. The portions of a street right-of-way not used as a roadway, generally located between the curb or edge of the roadway and the adjacent property line.

(1998 Code, sec. 9.1201)

**Sec. 16.03.002 Use of right-of-way for certain construction activities**

The director of public works may authorize construction activities by the city or a public service agency for the purposes of repair or maintenance of utilities, pavement structure, or surfaces within the public right-of-way without requiring compliance with section 16.03.003. (1998 Code, sec. 9.1202)

**Sec. 16.03.003 Undergrounding Utilities**

All utilities in the right-of-way shall be installed underground in accordance with Cedar Park Code of Ordinances Section 14.06.001, as amended.

**Sec. 16.03.004 Lighting in Design Districts**

All lighting facilities installed in the right-of-way shall comply with Cedar Park Code of Ordinances Section 14.08.006 Lighting in Design Districts, as amended.

**Sec. 16.03.005 Permit required**



(a) The director of public works shall have the authority to require any person undertaking to perform any activity upon, in, under, above or adjacent to any public street, which activity requires the temporary closing or blocking in whole or in part of any city roadway, to secure a permit before closing or blocking any part of such street. (1998 Code, sec. 9.1203)

(b) A permit is required prior to the installation of any facilities in the City's right-of-way and an application for a permit must comply with Section 16.03.14(g), as applicable.

**Sec. 16.03.006 Application for activity requiring the temporary closing or blocking of a City roadway**

When a permit for the occupancy of public right-of-way is required pursuant to Section 16.03.003, the permit application shall be filed with the director of public works no less than nine (9) days before the day the applicant seeks to first block or close any part of the right-of-way unless otherwise authorized for good cause by the director of public works. (1998 Code, sec. 9.1204)

**Sec. 16.03.007 Action on the application for activity requiring the temporary closing or blocking of a City roadway**

(a) In passing upon an application for a permit pursuant to Section 16.03.003, the public shall take into consideration the following:

- (1) The need for the amount of space requested, taking into consideration the type of construction as shown by the application.
- (2) The period of time of occupancy of such space.
- (3) The public safety of the pedestrian and vehicular traffic in and adjacent to the space to be occupied.
- (4) The traffic congestion and the vehicular parking requirements at the location.

(b) No application shall be approved which does not show adequate protection of the pedestrian and vehicular traffic at the location of the requested space.

(c) The director of public works may disapprove applications for permits under this section for the following reasons:

- (1) The proposed barricading, signing, warning or other traffic control procedures or the equipment therefor do not comply with the requirements of the Manual on Uniform Traffic Control Devices and the Transportation Criteria Manual.
- (2) The nature of the activity to be performed or its location is such that the work without imposing any undue hardship on the applicant, can be performed without the necessity of blocking or closing the street.

- (3) The activity or the manner in which it is to be performed will violate a city ordinance or a state law.
- (4) Failure to furnish all of the information required by this section or, except for good cause shown, to file the application within the time prescribed by this section.
- (5) Misrepresenting or falsifying any information in the application.
- (6) The requested space assignments have already been reserved and the projects cannot be conducted simultaneously.
- (7) Activity would cause extreme safety hazard or traffic congestion.
- (8) A decision on an application for a permit may be appealed to the planning and zoning commission.

(1998 Code, sec. 9.1205)

**Sec. 16.03.008 Special requirements of permit for activity requiring the temporary closing or blocking of a City roadway**

The director of public works may require that any of the following special traffic control devices, working hours, project layout, and operations be imposed upon a permit issued under this article:

- (1) The use of additional barricades, signals, signs, or other traffic control or safety devices;
- (2) That the activity be performed only at certain hours during the day or night or during specified days of the week;
- (3) That only a specified area or not more than a specified number of lanes shall be blocked or closed at the same time or at specified times of the day;
- (4) That materials and equipment used in the activity and materials removed from any excavation be located other than in the vehicle traffic lanes of such street; or
- (5) Any construction activity that will require traffic to be detoured will be coordinated with said director or department before such detour is implemented unless such detour is necessary under emergency conditions.

(1998 Code, sec. 9.1206)

**Sec. 16.03.009 Insurance**

(a) If it is determined that a permit is required for the occupancy of public right-of-way, each person applying for such permit shall furnish to the city evidence that he has procured public liability and property damage insurance or obtained self-insurance in the following amounts:

- (1) For damages arising out of bodily injury to, or death of one person in any one accident: one hundred thousand dollars (\$100,000.00).
- (2) For damages arising out of bodily injury to, or death of two or more persons in any one accident: three hundred thousand dollars (\$300,000.00).
- (3) For injury to, or destruction of, property in any one accident: twenty-five thousand dollars (\$25,000.00).
- (4) Such insurance shall be kept in full force and effect during the period of time for which a permit shall be issued or the space occupied. No insurance shall be required of a franchise holder if the franchise fee includes the cost of using the city streets, and said franchise includes an insurance or indemnification agreement between the city and the franchise holder.

(1998 Code, sec. 9.1207)

#### **Sec. 16.03.010 Posting**

(a) All permits issued under this article shall be kept available and shall be produced for inspection upon demand of any city official.

(b) A copy of a right-of-way use for construction permit shall be kept at an easily accessible place on the construction site or business premises at all times during the period for which the permit is valid.

(1998 Code, sec. 9.1208)

#### **Sec. 16.03.011 Traffic control devices\***

Any person undertaking to perform any activity upon, in, under, above, or adjacent to any public street, highway, roadway, alley, sidewalk, or any portions of public right-of-way shall use barricades, signals, flags, flares, and all other traffic control and warning devices and procedures about the area during the duration of the activity within the public right-of-way of the type and of the manner required by the Transportation Criteria Manual and Manual on Uniform Traffic Control Devices. (1998 Code, sec. 9.1209)

#### **Sec. 16.03.012 Responsibility for barricades and signs**

The permit holder shall provide, erect, place, and maintain all warning signs, traffic control devices, and barricades required by the Manual on Uniform Traffic Control Devices, the Transportation Criteria Manual, or the permit. All such signs, devices and barricades should be

in good condition, clean and legible, and shall be of the type required by the Manual on Uniform Traffic Control Devices and the Transportation Manual; provided, that the public works department may authorize the use of different or special devices and equipment if the director finds such equipment will be at least as effective for its intended purpose as that set forth for such purpose in the Manual on Uniform Traffic Control Devices and the Transportation Criteria Manual. When regulatory signs are required to be provided and installed by said manuals or are deemed necessary by said manuals or deemed necessary by said director, such signs will be installed by the city. (1998 Code, sec. 9.1210)

**Sec. 16.03.013 Restoration of work site**

(a) Upon completion of any or all activity requiring the blocking or closing of the public street, the public right-of-way will be restored to its original condition. If a permit issued pursuant to this section is revoked, the permit holder shall immediately commence operations to restore the activity area within the street to its original condition and complete such work within twenty-four (24) hours. Except as required to restore the activity area, the permit holder shall remove all equipment, persons, materials, and debris from the street. The activity area shall be restored according to the procedures contained within the Transportation Criteria Manual.

(b) If the restoration required by subsection (a) is not completed as determined by the public works department, the city shall be authorized, at its election, to restore the premises to its proper condition and shall be entitled to recover from the permit holder by civil action the actual expenses incurred in such restoration, including without limitation the cost of labor, materials, overhead, rental of any equipment used in restoring the site, and attorney's fees, and for such purposes, the city shall have a right of action against any bonds in effect running from the permit holder to the city, conditioned upon compliance with all ordinances dealing with the performance of said work.

(1998 Code, sec. 9.1211)

**Sec. 16.03.014 Deployment of Network Nodes in Public Rights of Way**

(a) Applicability. This Section shall apply to the deployment of all Network Nodes, Network Support Poles, and Transport Facility in the City rights-of-way in accordance with Texas Local Government Code Chapter 284, as amended. In the event that this Section conflicts with Article 14.09 Wireless Telecommunication Facilities, this Section shall govern.

(b) Definitions. The definitions of the following terms shall be the definitions of those terms pursuant to Texas Local Government Code Chapter 284, as amended:

- (1) Network Node;
- (2) Network Provider;
- (3) Network Support Pole;
- (4) Public Right-of-Way;
- (5) Public Right-of-Way Rate;

- (6) Service Pole; and
- (7) Transport Facility.

- (c) **Public Right-of-Way Rate.** A Network Provider shall pay the Public Right-of-Way rates for use of the public right-of-way in accordance with Appendix A of this Code.
- (d) **Collocation on Service Poles.** A Network Provider may collocate on a Service Pole subject to a license agreement with the City and upon payment of fees in accordance with Appendix A of this Code.
- (e) **Design Manual.** Any Network Provider installing Network Nodes in the City shall comply with a design manual on file with the Public Works Department, and as amended by the Director of Public Works or their designee.
- (f) **Prohibited Installation.** Installation of Network Node support poles is prohibited in the Public Right-of-Way of municipal parks and adjacent to certain streets or thoroughfares pursuant to Texas Local Government Code Section 284.104, as amended.
- (g) **Permit Required.**

- (1) A Network provider shall obtain a permit from the City before installing a Network Node, Node Support Pole, or Transport Facility in Public Right-of-Way.

- (2) A Network Provider who submits a permit application to install or collocate multiple Network Nodes may file a consolidated permit application with the Engineering Department for not more than 30 Network Nodes.

- (3) **Application.** A Network Provider shall complete and submit to the City a right-of-way permit application, pursuant to the requirements set forth in the Design Manual, as amended. All relevant fees in accordance with Appendix A of this Code shall be submitted in accordance with the application.

- (h) **Application Review Process.**

- (1) **Determination of Completeness.** The City shall determine whether an application is complete and notify the applicant of that determination not later than:

- (A) The 30<sup>th</sup> day after the City receives an application for a permit for a Network Node or Network Support Pole; and

- (B) The 10<sup>th</sup> day after the City receives an application for a permit for a Transport Facility.



If the City determines that the application is not complete, the City shall specifically identify the missing information.

(2) Action on Application. The Director of Public Works, or their designee shall approve or deny an application:

- (A) for a Node Support Pole not later than the 150<sup>th</sup> day after the date the City receives the complete application;
- (B) for a Network Node not later than the 60<sup>th</sup> day after the date the City receives the complete application; and
- (C) for a Transport Facility, not later than the 21<sup>st</sup> day after the date the City receives a complete application.

An application shall be deemed approved if the application is not approved or denied on or before the applicable date for approval or denial prescribed by this Subsection.

(3) Denial of Application.

- (A) If the Director of Public Works, or their designee, denies a complete application, the Director of Public Works, or their designee, must document the basis for denial, including the specific applicable Code provisions or other municipal rules, regulations, or other law on which the denial was based. The Director of Public Works, or their designee shall send the documentation by electronic mail to the applicant on or before the date the Director of Public Works, or their designee denies the application.
- (B) Not later than the 30<sup>th</sup> day after the date the Director of Public Works or their designee, denies the application, the applicant may cure the deficiencies identified in the denial documentation and resubmit the application without paying an additional application fee, other than a fee for actual costs incurred by the City. Notwithstanding, Subsection (2) herein, the Director of Public Works or their designee, shall approve or deny the revised completed application after a denial not later than the 90<sup>th</sup> day after the date the City receives the completed revised application. The Director of Public Work's, or their designee's, review of the revised application is limited to the deficiencies cited in the denial documentation.

- (i) Notice for other work. While a permit is not required for the following work, the Network Provider shall provide the Director of Public Works, or designee, notice that the Network Provider will be performing the work no fewer than 30 days prior to the work commencing:

- (1) Routine maintenance that does not require excavation or closing of sidewalks or vehicular lanes in a Public Right-of-Way;
- (2) Replacing and upgrading a Network Node or pole with a node or pole that is substantially similar in size (as defined by Texas Local Government Code Chapter 284, as amended) or smaller and that does not require excavation or closing of sidewalks or vehicular lanes in a Public Right-of-Way; or
- (3) The installation, placement, maintenance, operation, or replacement of micro Network Nodes that are strung on cables between existing poles or node support poles, in compliance with the National Electrical Safety Code.

Work that is necessary to restore existing service may be performed without notice.

**APPENDIX A FEE SCHEDULE**

**ARTICLE 2.000 DEVELOPMENT SERVICE RELATED FEES**

**Sec. 2.300 Public works fees**

- (f) Network Nodes, Node Support Poles, and Transport Facilities in Public Right-of-Way: These amounts are pursuant to Texas Local Government Code Chapter 284 and shall automatically be amended in accordance with any amendment to that Chapter.

(1) Application Fee: the lesser of:

(A) The actual, direct, and reasonable costs the municipality determines are incurred in granting or processing an application that are reasonably related in time to the time the costs of granting or processing an application; and

(B) \$500 per application covering up to five (5) Network Nodes, \$250 for each additional Network Node per application, and \$1,000 per application for each pole.

(2) Public Right-of-Way Rate:

(A) Network Node: \$250 per year multiplied by the number of Network Nodes installed in the Public Right-of-Way. This amount shall adjust annually by an amount equal to one-half the annual change, if any, in the consumer price index.

(B) Transport Facility rental rate: \$28 per network Network Node per month, unless an equal or greater amount is paid the City (e.g., under Texas Local Government Code Chapter 283 and/or Texas Utilities Code Chapter 66).

(C) Collocation of Network Nodes to Service Poles: \$20 per year per Service Pole.

(g) Miscellaneous public works fees.

(1) Permit for construction within flood hazard areas: \$500.00.

(2) Right-of-way use permit (i.e., street-cut): \$100.00.

(3) Easement vacation: \$50.00.

(4) Rough-cut permit: \$100.00.

(5) LOMR/CLOMR review: \$500.00.

(6) Drainage study review (outside of plat process): \$250.00 + professional recovery fee.